

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

REGINALD UNDERWOOD FULLARD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:22CV530
	)	
C.K. ROBERTSON, et al.,	)	
	)	
Defendant(s).	)	

**ORDER**

The Order and Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on December 16, 2022, was served on the parties in this action. (ECF Nos. 8, 9.) Plaintiff filed an objection to the Recommendation within the time limit prescribed by Section 636. (ECF No. 10.)

The court has appropriately reviewed the portions of the Magistrate Judge’s report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge’s report. The court therefore adopts the Magistrate Judge’s recommendation.

To the extent Plaintiff attempts to amend his Complaint, he has failed to file a separate Motion to Amend, and his attempt to amend his claims in his objections is improper. In any event, any proposed amendment based on the additional conclusory facts alleged in the objections would be futile as it fails to state a plausible claim. *Katyle v. Penn Nat. Gaming, Inc.*, 637 F.3d 462, 471 (4th Cir. 2011) (“Futility is apparent if the proposed amended complaint fails to state a claim under the applicable rules and accompanying standards[.]”).

**IT IS THEREFORE ORDERED** that the Magistrate Judge's Recommendation, (ECF No. 8), is **ADOPTED**.

**IT IS FURTHER ORDERED** that Plaintiff's document, construed as a Complaint under 42 U.S.C. § 1983, (ECF No. 1), be **DISMISSED** without prejudice to Plaintiff seeking appropriate relief in his prior action, Case No. 1:21cv416, or otherwise filing a new complaint asserting claims against those individuals who have violated his constitutional rights.

This, the 9<sup>th</sup> day of February 2023.

/s/ Loretta C. Biggs  
United States District Judge